

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	:	
	:	CR. NO. 3:23-CR-149
v.	:	
	:	
NICHOLAS DOMBEK,	:	
DAMIEN BOLAND,	:	(Judge Mannion)
ALFRED ATSUS and	:	
JOSEPH ATSUS,	:	
	:	
Defendants.	:	(electronically filed)

MOTION FOR EXTENSION OF TIME TO RESPOND TO
DEFENDANT'S PRETRIAL MOTIONS, REQUESTS, AND
MOTIONS *IN LIMINE*

The United States of America, by and through undersigned counsel, respectfully moves this Court for an extension of time to file its Response to the Defendants' Pretrial Motions. (Docs 91-107). In support of this request the following is submitted:

1. On June 6, 2023, a federal grand jury indicted the defendants, charging them each with one count of Conspiracy to Commit Theft of Major Artwork, Concealment and Disposal of Major Artwork, and Interstate Transportation of Stolen Property, in violation of 18 U.S.C. §371. Defendant Nicholas Dombek was further charged with eight counts of Concealment or Disposal of Major Artwork, in

violation of 18 U.S.C. §668 and §2, one count of Theft of Major Artwork, in violation of 18 U.S.C. §668 and §2, and one count of Interstate Transportation of Stolen Property, in violation of 18 U.S.C. §2314 and §2. Defendant Damien Boland was further charged with eight counts of Concealment or Disposal of Major Artwork, in violation of 18 U.S.C. §668 and §2, and two counts of Theft of Major Artwork, in violation of 18 U.S.C. §668 and §2. Defendant Joseph Atsus was further charged with four counts of Concealment or Disposal of Major Artwork, in violation of 18 U.S.C. §668 and §2, and one count of Theft of Major Artwork, in violation of 18 U.S.C. §668 and §2. Defendant Alfred Atsus was further charged with three counts of Concealment or Disposal of Major Artwork, in violation of 18 U.S.C. §668 and §2, and one count of Theft of Major Artwork, in violation of 18 U.S.C. §668 and §2. (Doc. 1).

2. On July 13, 2023, defendant Boland appeared before U.S. Magistrate Judge Joseph F. Saporito, Jr., and pleaded not guilty to all charges. (Doc. 18). Boland was released pending trial under the supervision of the Pretrial Services Office, Middle District of Pennsylvania, Scranton Division. (Doc. 38).

3. On July 15, 2023, defendants Alfred and Joseph Atsus separately appeared before U.S. Magistrate Judge Joseph F. Saporito, Jr., and each pleaded not guilty to all charges. (Doc. 28 & 33). Both defendants were released pending trial under the supervision of the Pretrial Services Office, Middle District of Pennsylvania, Scranton Division. (Docs. 30 & 35).

4. On January 2, 2024, defendant Dombek appeared before then Chief Magistrate Judge Karoline Mehalchick and pleaded not guilty to all charges. (Doc. 58). Dombek was ordered detained pending trial. (Doc. 60).

5. After multiple unopposed motions to extend jury selection, trial, and the pre-trial motions deadline, by Order dated March 15, 2024, the Court directed that the pretrial motion deadline would run on July 12, 2024, and set jury selection and trial for September 23, 2024. (Doc. 77).

6. On July 12, 2024, defendants Damien Boland, Joseph Atsus, and Alfred Atsus filed seventeen requests, motions, and accompanying briefs in support requesting various relief, namely: a joint request for

intent to use any evidence discovered under Rule 16; a joint request for written disclosure admissible under Rule 609(a)(1) and/or (2); a joint request for pretrial disclosure of hearsay statements pursuant to F.R.E. 807; a joint request for disclosure of co-conspirator statements pursuant to F.R.E. 801(d)(2)(E); a joint request for notice of any evidence the government intends to introduce at trial pursuant to Rule 404(b)(2); a joint motion to sever the case from defendant Dombek; a joint motion for consideration of the Court to authorize the distribution of a written juror questionnaire in advance of jury selection; a joint motion to dismiss Count 1 of the Indictment for failure to state an offense; a joint motion *in limine* to exclude the Government's expert testimony regarding the authenticity, value, and/or age of the alleged objects of cultural heritage; a joint motion *in limine* to exclude evidence of firearm recovered from Damien Boland's Aunt; and a motion in limine from defendant Joseph Atsus to exclude statements protected under the spousal immunity privilege. (Docs. 91-107).

7. On July 24, 2024, Attorney Ernest D. Preate, Jr., filed an unopposed motion to withdraw from his representation of defendant

Dombek. (Doc. 108).

8. Considering the multiple motions for relief and the legal rationale for that relief expressed in the defendants' extensive motions, requests, and briefs, Counsel for the Government will need additional time to review the defendant's motions, conduct adequate legal research, and prepare responses.

9. Therefore, it is respectfully that the ends of justice will be served by the extension of time and that an extension for the above reasons outweighs the interest of the public and the defendant in a speedy trial. Therefore, the Government respectfully requests a sixty (60) day extension to file its responses.

10. Counsel for defendants Boland, Joseph Atsus, and Alfred Atsus concur only in an extension of thirty (30) days for the Government to file its responses.

11. For the convenience of the Court, a proposed Order is attached to the government's motion.

WHEREFORE, the Government respectfully requests an extension of time of sixty (60) days to file its response to defendant's pretrial motions.

Respectfully submitted,

GERARD M. KARAM
United States Attorney

Date: July 26, 2024

/s/ James M. Buchanan
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	:	
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CERTIFICATE OF CONCURRENCE

I, James M. Buchanan, hereby certify that I have spoken with counsel for defendants, Damien Boland, Joseph Atsus, and Alfred Atsus and that they concur in an extension of only thirty (30) days for the Government to file its responses.

/s/ James M. Buchanan
JAMES M. BUCHANAN
Assistant U.S. Attorney

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that she is an employee in the Office of the United States Attorney for the Middle District of Pennsylvania and is a person of such age and discretion as to be competent to serve papers.

On July 26, 2024, the undersigned served a copy to all defense counsel via ECF of the Government's

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Dated: July 26, 2024

/s/ Christina M. Nihen
Christina M. Nihen